



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/598,758

12/05/2007

Jeffrey A. Ruschke

7175-202950

9904

69781 7590 12/28/2009
BARNES & THORNBURG, LLP
11 SOUTH MERIDIAN STREET
INDIANAPOLIS, IN 46204

EXAMINER

KELLEHER, WILLIAM J

ART UNIT

PAPER NUMBER

3673

NOTIFICATION DATE

DELIVERY MODE

12/28/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

indocket@btlaw.com

Office Action Summary	Application No. 10/598,758	Applicant(s) RUSCHKE ET AL.	
	Examiner WILLIAM KELLEHER	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7,10,11,13,16-21,24,28 and 29 is/are rejected.
- 7) ☒ Claim(s) 4,5,8,9,12,14,15,22,23,25-27 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 2 is objected to because of the following informalities: Claim 2 is dependent on itself, but will be interpreted as dependent on Claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 10, 18, 2-3, 6, 7, 11, 13, 17, 19, 20, 21, 24, 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Rochers (U.S. Patent 2,587,291).

Regarding Claim 1, Rochers discloses a siderail for use with a patient support, the siderail being configured to move between a raised position and a lowered position, the siderail comprising: a rail member (top rail 9); and a rail extension (lower rail 9) coupled to the rail member, the rail extension being configured to move between an extended position relative to the rail member when the siderail is in a raised position (Figure 1) and a non-extended position relative to the rail member (Figure 2) when the siderail is in a lowered position.

Art Unit: 3673

Regarding Claim 10, Rochers discloses a siderail for use with a patient support, the siderail comprising: a rail member; a linkage (structure and hinges between two rails) supporting the rail member for vertical movement between a raised position and a lowered position; and a rail extension operably coupled to the rail member, the rail extension being configured to move downwardly in response to movement of the linkage in a first direction and the rail extension being configured to move upwardly in response to movement of the linkage in a second direction opposite of the first direction.

Regarding Claim 18, Rochers discloses a siderail for use with a patient support, the siderail comprising: a rail member supported for movement between a raised position and a lowered position; a rail extension operably coupled to the rail member, the rail extension configured to move to a retracted position as the rail member moves to the lower position and configured to move to an extended position as the rail member moves to the upper position.

Regarding Claim 2, Rochers discloses the siderail of claim 2, further comprising a linkage (hinges 11 that connect rail and rail extension), wherein the linkage causes the rail extension to move between the extended and non-extended positions.

Regarding Claims 3 and 10, Rochers discloses the siderail of claims 2 and 10, further comprising an actuator (rails 10 that connect hinges that connect rails) operably coupled to the linkage and configured to cause the rail extension to move between the extended and retracted positions.

Regarding Claim 6, Rochers is considered to disclose a clocking linkage because it moves clockwise and counterclockwise.

Regarding Claim 7, Rochers discloses the siderail of claim 2, wherein the rail extension is configured to move along a vertical axis relative to a lower edge of the rail member.

Regarding Claim 13, rails 10 are considered a biasing device.

Regarding Claim 17, Rochers discloses the siderail of claim 10, wherein the linkage includes a first arm and a second arm positioned in spaced relation to the first arm, each of the first arm and the second arm including a first end rotatably coupled to the patient support and a second end rotatably coupled to the rail member. The arms are considered 11 of Rochers.

Regarding Claim 19, Rochers discloses the siderail of claim 18, wherein the rail extension is positioned below the rail member, the rail extension in the retracted position being positioned closer to the rail member than the rail extension in the extended position.

Regarding Claim 20, Rochers discloses the siderail of claim 18, further comprising a linkage operably coupled to the rail member, the linkage configured to cause the rail member to move between the upper position and the lower position and to cause the rail extension to move between the extended position and the retracted position.

Regarding Claim 21, Rochers discloses the siderail of claim 18, further comprising an actuator operably coupled to the linkage and configured to cause the rail extension to move to the extended position as the rail member is moved to the raised position.

Art Unit: 3673

Regarding Claim 24, rails 11 of Rochers are considered a biasing device.

Regarding Claim 29, Rochers discloses the siderail of claim 18, wherein the linkage includes a first arm and a second arm positioned in spaced relation to the first arm, each of the first arm and the second arm including a first end rotatably coupled to the patient support and a second arm rotatably coupled to the rail member.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rochers.

Regarding Claims 16 and 28, the Examiner takes Official Notice that it is well known in the art of bed side rails to have multiple vertical and horizontal rails connected to form the rail.

Allowable Subject Matter

4. Claims 4, 5, 8, 9, 12, 14, 15, 22, 23, 25-27, 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM KELLEHER whose telephone number is (571)272-7753. The examiner can normally be reached on Monday - Friday 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter M. Cuomo/
Supervisory Patent Examiner, Art Unit 3673

/W. K./
Examiner, Art Unit 3673

Application/Control Number: 10/598,758
Art Unit: 3673

Page 7